IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE ELEVENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE C.Y.SOMAYAJULU

WRIT PETITION NO: 12994 of 2004

Between:

Mohammed Ahmed Ibraheem, S/o Mohammed Ahmed Meraj, Age 21 years, Occ: Student, Tolichowki, Hyderabad

.....PETITIONER

AND

1 The Assistant Commissioner of Police, Asifnagar Division, West

Zone, Asifnagar, Hyderabad.
2 The Inspector of Police, Police Station Humayunnagar,

Hyderabad.
3 The Station House Officer, Task Force, Begumpet, Hyderabad.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, Order or direction more particularly in the nature of Writ of Mandamus declaring the action of respondents in opening a rowdy/history sheet against the petitioner as illegal and arbitrary and consequently direct the respondents here in to close the same in the interest of justice and pass such other order or orders.

Counsel for the Petitioner: MR.S.S.PERVAIZ

Counsel for the Respondents: GP FOR HOME

The Court made the following:

ORDER:

This petition is filed to quash the rowdy/history sheet opened against the petitioner.

2. The allegations, in brief, in the affidavit of the petitioner filed in support of the petition are, on 06-06-2003 when he was returning from Begum Bazar towards his house and reached near Noble Talkies Cross Roads he was stopped and arrested by the police for no fault of his, and is shown as an accused in Crime Nos.151 and 152 of 2003 though he has nothing to do with the incidents alleged in those cases. On the basis that two crimes are registered against him, second respondent opened a rowdy/history sheet against him, contrary to the police standing order No.742, and hence the petition.

3. On behalf of respondents, second respondent filed his counter affidavit contending that petitioner who is a rowdy element is always bent upon causing law and order problems and is causing breach of peace in the area and is involved in Crime No.151 of 2003 registered under Sections 147, 148, 149, 427 IPC and Crime No.152 of 2003 registered under Sections 147, 148, 149 and 332 IPC of Habeebnagar Police Station and Crime No.111 of 2004 was also registered against him under Section 41(a) read with Section 110 Cr.P.C. of Humayunnagar Police Station and so as per the orders of the Assistant Commissioner of Police, Goshamahal Division, Hyderabad, a rowdy sheet was opened against the petitioner on 26-8-2003 and so there are no grounds to quash the rowdy sheet against the petitioner.

4. As per the directions of this Court, the learned Assistant Government Pleader produced the file relating to the petitioner. Crime No.151 of 2003 was registered on a report given by the Branch Manager, State Bank of India, in respect of the damage that was caused to the property of State Bank of India, Aghapura Branch, and Crime No.152 of 2003 also relates to the very same incident but was registered on the basis of a report given by the Reserve Inspector. So, it is clear that both the Crime Nos.151 and 152 of 2003 relate to the same incident. After he was arrested in those two crimes, petitioner was issued notice under Section 41(a) of Hyderabad City Police Act and a case in Crime No.111 of 2004 was registered against him under Section 110 Cr.P.C. of Humayun Nagar Police Station. So, in effect, there is only one crime against the petitioner, which is still being investigated into.

5. In **MOHYAMMAD AYUB v. THE DEPUTY COMMISSIONER OF POLICE** after referring to the principles laid down in

S.SATYANARAYANA V. STATE OF A.P. a learned single Judge of this Court held that mere conviction or convictions of a person cannot form basis for opening of a history or rowdy sheet, though history sheet can be opened even without conviction, for the limited purpose of watching a person discreetly, and at the time of opening a history sheet or rowdy sheet a competent officer has to apply his mind, taking into consideration the social background of the person involved, the proceedings in the criminal trial i.e. if that person is convicted, and the other relevant material, before passing orders for opening history sheet or rowdy sheet.

6. The file produced before me shows that the Assistant Commissioner of Police on the basis of the letter addressed by the second respondent mechanically passed orders for opening of a rowdy sheet against the petitioner. Since the Assistant Commissioner of Police did not apply his mind to consider whether it is necessary to open a rowdy sheet against the petitioner or not, and had also failed to take notice of the fact that the two crimes registered against him are in respect of the same offence, proceedings issued by the Assistant Commissioner of Police to open a rowdy sheet against the petitioner cannot but be said to be improper and unwarranted and therefore the said proceedings are liable to be and hence are quashed.

7. The petition is accordingly allowed. No costs.

(C.Y.Somayajulu, J.)

Date: 11-10-2004

Cvrk

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Monday, the Eleventh day of October, Two thousand and four.

REGISTRAR

// TRUE COPY //

SECTION OFFICER

Copies to:

1. The Assistant Commissioner of Police, Asifnagar Division, West

Zone, Asifnagar, Hyderabad.
2. The Inspector of Police, Police Station Humayunnagar,

Hyderabad.
3. The Station House Officer, Task Force, Begumpet, Hyderabad.

4. 2CCs to G.P. for Home, High Court Buildings, Hyderabad.

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